IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/07/2002

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

W.P.No.7353 of 1999 and W.P.No.11613 of 2000
and
W.M.P.No.16626 of 2000 and W.P.M.P.Nos.10054 and 10055 of 2002

1. V.S.Ekambaram
2. P.S.Raghupathy
3. S.Krishnasamy
4. Jayalakshmi
5. V.Devanathan
6. K.Madanagopal (died)
7. P.N.Sampath,
8. R.Pushparaj
9. R.Logiah
10.Soody
11.C.L.Rajarathnam (died)
12.A.Seshachalaraju
13.A.Ramamoorthy
14.Andalammal
15.M.Manivannan
16.Tmt.Tara Rajarathnam
17.P.R.Gunasekaran
18.Tmt.Nalini
(15th petitioner is
substituted in the place
of (late)K.Madanagopal as
per order of Court in
W.P.M.P.No.10054 of 2002
dated 14.3.2002)(Petitioners
16 to 18 are substituted
in the place of (late)
C.L.Rajarathnam as per order
of Court in W.P.M.P.No.10055
Of 2002 dated 14.3.2002). ... Petitioners in W.P.No.7353/1

K..Balachandra Menon. ... Petitioner in W.P.No.11613/2000

-vs.-

1.The Appellate authority under
the payment of Gratuity Act,1972
and the Regional Labour Commissioner(C)
Shastry Bhavan,26,Haddows Road,Chennai-6

2.The Controlling authority under the
payment of Gratuity Act,1972

3.The Chief General Manager,
State Bank of India,
21,Rajaji Salai,Chennai-1. ... Respondents in both W.Ps.

Both the Writ Petitions under Article 226 of the Constitution of India, praying to issue writ of Certiorarified mandamus as stated therein.

For Petitioner: : Mr.N.G.R.Prasad for
M/s Row & Reddy

For Respondents: : Mr.V.Venkatasamy, ACGSC-R1&R2
Mr.R.Krishnamachari.-R3.

:O R D E R

Petitioners have filed W.P.No.7353 of 1999 praying to issue a writ of certiorarified mandamus, calling for records from the first respondent dated 11.2.99 and 4.3.99 in Gratuity Appeals 3 to 11, 13,to 16 and 50 of 1998 respectively and to quash the same and consequently to compute the amount as prayed for in the gratuity applications before the 2nd and 3rd respondents together with interest at 10% per annum from the date of the application before the 3rd respondent with costs.

Petitioner in W.P.No.11613 of 2000 has filed this writ petition praying to issue a writ of certiorarified mandamus calling for the records of the respondents and quash the order of the first respondent dated 9.2.2000 in G.A.No.2/99 and consequently direct the 2nd respondent to hear and decide the Gratuity Application No.2/99 on merits and in accordance with law.

2. In the affidavit filed in support of the writ petition No.7353 of 1999 the petitioners would submit that they were employed by the Imperial Bank of India, which was taken over by the 3rd respondent on 1 .7.1955 under the State Bank of India Act,1955; that they retired from State Bank of India on various dates; that at the time of their retirement, the Payment of Gratuity Act, 1972 (hereinafter called as the Act) came into force on 16.9.1972; that they were paid gratuity as per Section 4 of the Act at the rate of 15 days' salary for every completed year of service subject to the ceiling prevailing at that time; that they were not paid the better terms of gratuity according to paragraph 370 of the LAT Award which stood protected under Section 4(5) of the Act; that earlier, the employees of the Imperial Bank of India were covered by gratuity scheme based on two awards of the year 1 947-48; that one was the Divetia award which was applicable to Imperial Bank employees working in Bombay and Ahmedabad, which provided for payment of gratuity of one month's last drawn basic pay for every one year of service subject to a ceiling; that the Gupta award which was applicable to the employees of Imperial Bank of India (Bengal circle) provided for gratuity at the same rate of basic pay on Divetia award but without ceiling was made applicable to all the officers of the Imperial Bank of India outside Bombay and Ahmedabad; that the LAT gave an

award in April,1954 removing the ceiling on the payment of gratuity only under the Divetia award as it was an anomaly; that this modification along with other modifications was incorporated into the Shastry Award by the Industrial Disputes(Banking companies) Decision Act,1955 (41 of 1955) which was to be in force till 31.3.1959; that this act statutorily protected subsequently under Sec.7 of the State Bank of India Act,1955 which came into force on 1.7.1955 relating to pension, gratuity and other matters of the Imperial Bank of India are protected till they are duly altered according to law, but there was no alteration; that one P.V.Raju, who retired in April,1986 filed a case under the Act claiming differential gratuity, which was ordered by the controlling authority in 1992 to be paid by the third respondent-bank, which was confirmed by appellate authority, against which the bank filed a writ petition in W.P.No.16842/94 on the file of the High Court, Andhra Pradesh, which is pending; that though the learned Single Judge held the condonation wrong, in W.A.Nos.230 and 253 to 27 3 of 1996, the Division Bench held on construction of the Gratuity Central Rules that there was really no delay, which will apply to this case also; that the controlling authority subsequently computed the differential gratuity against which the Bank has gone to the High Court by way of appeal; that in the light of the above developments, they have filed similar claims for differential gratuity in 1994/95 before the third respondent employer under 10 of the Central Rules; that the third respondent neither accepted nor negatived the claim but kept quiet; however, they filed the application for differential gratuity in Form.N within 90 days from the date of their application to the employer claiming differential gratuity; that the bank did not take any step to pay the difference. On such averments, the petitioners have come forward to file this writ petition praying for the relief extracted supra.

3. In the counter filed on behalf of the third respondent in W.P.No.7353 of 1999 he would submit that a single writ petition is not maintainable as each and every petitioner has separate right and the cause of action has arisen on different dat that the applications of the petitioners in Form 'N' were dismissed against which separate appeals were filed by the petitioners and they were also dismissed; that the condoning delay applications were filed for the delay of 4 to 23 years; that the petitioners were not entitled to claim higher amount claimed by them even under paragraph 370 of LAT Award; that the applications have been rightly dismissed as they were filed out of time and that the delay has not been explained properly; that all the petitioners were paid gratuity under the Act; that it is not correct to state that an application can be filed under the Payment of Gratuity Act at any time as per Rule 7 of the Payment of Gratuity Rules,1 972; that admittedly the petitioners have not filed the applications in Form I under Rule 7 with the employer within 30 days of their superannuation and hence, the impugned orders are not vitiated by errors of law.

4. In the affidavit filed in support of the writ petition No.11613 of 2000, the petitioner would submit that he joined the Imperial Bank of India on 27.7.1950 as an Award Staff i.e. Clerical Staff, which was taken over by the 3rd respondent on 1.7.1955 under the State Bank of India Act,1955;

that he retired from State Bank of India on 31.5 .1992; that at the time of their retirement, the Payment of Gratuity Act, 1972 (hereinafter called as the Act) had come into force on 16.9 .1972; that he was paid only a gratuity of Rs.39,650/- as per Section 4(2) of the Act; that he was not paid the higher gratuity of one month salary for every year of service as per para 370 of LAT Award of 1954 the better terms of gratuity according to paragraph 370 of the LAT Award which stood protected under Section 4(5) of the Act; that the difference in gratuity worked out to Rs.2,44,722/-; that some of his colleagues filed claim petition for the differential gratuity based on one P.V.Raju's case, who was also a retired Imperial Bank of India employee like him and who had also preferred the claim before the Assistant Labour Commissioner, Hyderabad belatedly;that the Assistant Labour Commissioner has condoned the delay and posted the matter for hearing on merits; that the matter was taken by way of a writ petition and a Writ Appeal in Andhra Pradesh High Court; that the Division Bench of the Andhra Pradesh High Court in its decision reported in 1 996 LIC dated 29.3.1996 held that the Controlling Authority had rightly condoned the delay if any and the Single Judge of the Andhra Pradesh High Court was not right in reversing the decision of the Authority and remanded the matter to the Controlling Authority for disposal on merits, with a further direction that the question of delay will be agitated only after a decision upon merits is given by the Controlling Authority; that going by the judgment of the Division Bench, there is also no delay in his case, which can be agitated by the employer;that the Division Bench also held that the question of limitation relating to gratuity was only procedural and a claim for gratuity cannot be extinguished because gratuity is property and the State Bank of India was a State under Article 12 of Constitution.

5. The petitioner would further submit that on coming to know about the developments based on Raju's case, he put in a claim with the State Bank of India, the third respondent herein for the differential gratuity on 27.1.1999; that the third respondent bank neither accepted nor rejected his claim, when he had given reasons for the delay; that when the employer did not send any reply either entertaining the claim or negativing it, he filed an application on 15.2.1999 before the Controlling Authority the second respondent herein in Form 'N', within the period of 90 days as per Rule 10(1) of the Payment of Gratuity (Central) Rules; that the second respondent by his order dated 9.8 .1999 entertained his claim by condoning the delay; that instead of facing the issue on merits the third respondent has filed an appeal G.A.No.2/1999 under Section 7 of the Payment of Gratuity Act, 1972, against the order of the Controlling Authority, the second respondent herein; that the first respondent Appellate Authority by its order dated 9.2.2000 (Exh.'A') reversed the said decision. Aggrieved by the same, he has come forward to file this writ petition praying to quash the order of the first respondent dated 9.2.2000 and for consequential direction to the 2nd respondent to hear and decide the G.A.No.2/1999 on merits and in accordance with law.

6. In the counter affidavit filed by the third respondent in W.P.No.11613 of 2000 he would submit that the alleged claim is time barred as it is preferred after 6 years and 8 months after retirement and settlement of gratuity; that no reason whatsoever has been given for the long and inordinate delay in preferring the claim petition before the second respondent; that the

petitioner retired as officer/ supervisory cadre and not an award staff and hence the Shastry Award and LAT does not apply to the petitioner who was an officer in supervisory cadre and not an award staff or workman as per Industrial Disputes Act, 1947 and hence the additional claim for gratuity is not maintainable; that the gratuity payable under the Gratuity Act,1972 being Rs.39 ,650/- has been paid and accepted by the petitioner,and hence he is estopped in law from filing the application before the second respondent and this writ petition; that as per Rule 46 of the S.B.I. Officers Service Rules, the petitioner is not eligible for gratuity as he was granted pension, however, the petitioner was paid gratuity under the gratuity Act. On such averments, he would pray to dismiss the writ petition with costs.

7. During arguments, learned counsel appearing on behalf of the petitioners besides bringing out the implications of the pleadings of the petitioners and the respondents as well, would also cite the following judgments in support of the case of the petitioners respectively reported in

i) 1991 (2) LLN 134 (MOHANLAL, Versus APPELLATE AUTHORITY UNDER PAYMENT OF GRATUITY ACT, BHOPAL AND OTHERS)

ii) 1993(1) LLN 129 (TEXMACO, LTD., Versus RAM DHAN AND ANOTHER)

iii) 1996 L.I.C. 2765 (P.RAMA RAO Versus CONTROLLING AUTHORITY UNDER P.G.ACT & ALC (C).

iv) 1996(1) SCC 172 (S.R.BHANRALE Versus UNION OF INDIA AND OTHERS)

v) 1997(6) SCC 721 (K.C.SHARMA AND OTHERS Versus UNION OF INDIA AND OTHERS)

8. So far as the first judgment cited above is concerned, a Division Bench of the Madhya Pradesh High Court has held:

"The Controlling Authority under Payment of Gratuity Act having the jurisdiction to condone the delay by accepting the annexures beyond time it shall be deemed to have exercised its powers in that regard. Merely because belated filing was objected to, the jurisdiction of the controlling authority was not affected; and its power to condone the delay was not taken away.

9. In the second judgment cited above a Single Judge of the Delhi High Court has held :

"Payment of Gratuity Act being a social welfare legislation, workman cannot be deprived gratuity on account of late filing of application by workman and exercise of discretion in condoning delay is just and proper."

10. In the third judgment cited above, a Division Bench of the A.P. High Court has held:

"regarding the claim for gratuity the Rules prescribing for limitation are only procedural and do not intend to extinguish right of employee and moreover when employer has benefited itself by money belonging to employees cannot resist claim on technical plea of limitation."

11. In the next judgment reported in 1996(10) SCC 172, the Honourable Apex Court has held:

"Where the retiral benefits and other claims of a retired employee were wrongly withheld despite numerous representations, raising the plea of limitation by the Government against such claims, is improper."

12. In the last judgment reported in 1997(6) SCC 721 the Honourable Apex Court in paragraph 6 of its Judgment has held:
"Having regard to the facts and circumstances of the case, we are of the view that this was a fit case in which the Tribunal should have condoned the delay in the filing of the application and the appellants should have been given relief in the same terms as was granted by the Full Bench of the Tribunal."

13. In reply, the learned counsel appearing on behalf of the third respondent besides filing the notes of arguments would also advance his oral arguments.

14. So far as the W.P.No.11613 of 2000 is concerned the learned counsel for the third respondent would point out that bipartite settlement applies to award employees in all barring industry and supervisory employees; that before the Controlling or Appellate Authority the petitioner did not say that he was the supervisory official; that Rule 46 says gratuity is not payable if pension is granted; that all the three benefits under Gratuity Act and pension cannot be granted that it is 10 years after retirement this petitioner comes forward to say that he is entitled for gratuity showing P.V.Raju's case of Hyderabad; that therefore, the delay has not been condoned; that if there is a cause of action, this respondent has to pay interest at 12%; that under Section 4(5) of the Payment of Gratuity Act 15 days salary on each year has to be calculated; that petitioners in both the writ petitions have filed the claim in a belated manner after 4 to 23 years; that now they say that they are entitled to one month salary on every computed year; that the claim is time barred; that all the petitioners were paid gratuity under the Act in terms of 15 days per year.

15. Pointing out the relevant sections from the Act the learned counsel would stick to the reason for delay mentioned in para 3 of the application filed before the Controlling Authority in W.P.No.7353 of 1999 and in the other W.P.No.11613 of 2000 the reason assigned for delay that he was not aware that he was entitled to payment of gratuity on the basis of the awards including the Labour Appellate Tribunal Award on gratuity; that he was not aware that the right to gratuity should be protected separately by the State Bank of India Act, 1955; that he was under the impression that what was paid to him by way of gratuity was his entitlement till P.V.Raju and Sri A.K.Menon , employees of Imperial Bank of India raised and pursued their claim under the Awards; that the delay in preferring the claim as per the award is unintentional; and hence prayed to condone the delay.

16. So far as the other case in W.P.No.11613 of 2000 is concerned the learned counsel would point out that the petitioner is a supervisory official retired in the year 1992 and that he claims that he is entitled to gratuity under bipartite granted in 1953.

17. At this juncture the learned counsel would cite some decisions from the decided cases:
(i)1987 Labour and Industrial Cases 931 (BINNY LIMITED,BANGALORE Versus K.MADIAH AND OTHERS)
(ii)1988-II Labour Law Notes 126 (MADURA COATS, LTD., TUTITORIN v. ASSISTANT COMMISSIONER OF LABOUR, PALAYAMKOTTAI, AND OTHERS)

(iii)1988-I Labour Law Notes 1030(A.GOPINATHAN NAIR v. N.RADHA BAI)
(iv)1990-I Labour Law Notes 58.(TAMIL NADU MERCANTILE BANK LTD., v. APPELLATE AUTHORITY UNDER THE TAMIL NADU SHOPS AND ESTABLISHMENTS ACT)
(v)1969-II Madras Law Journal 392(C.S.GAJENDRAN AND OTHERS v. THE MANAGEMENT OF SRIGANDIBAN BUS SERVICE)
(vi)AIR 1995 Mad.102.(MANAGING DIRECTOR, THANTHAI PERIYAR TRANSPORT CORPORATION, VILLUPURAM v. K.C.KARTHIYAYINI)

18. In the first judgment cited above, reported in 1987 Labour and Industrial Cases 931 (BINNY LIMITED,BANGALORE Versus K.MADIAH AND OTHERS) it is held:
"Plea of Limitation raised by employer cannot be characterised as technical plea and rule 10 prescribing limitation for making application to the Controlling Authority is not ultra vires the rule making power."

19. In the second judgment cited above reported in 1988 Labour Law Notes 126 (MADURA COATS, LTD., TUTITORIN v. ASSISTANT COMMISSIONER OF LABOUR, PALAYAMKOTTAI, AND OTHERS) by a learned single Judge of the Madras High Court it is held that:
"Rule 10 of the Tamil Nadu Payment of Gratuity Rules, 1973, does prescribe a time limit for preferring an application of the present nature. When there is a delay in preferring the application, the authority has to condone the delay, on sufficient cause being shown by the applicant. This he must do first. This is the implication of the proviso to rule 10(1) of the rules. The general rule is that every application which has got to be preferred within a time prescribed, therefor, if not so preferred, shall be dismissed as time barred. By virtue of the power conferred on the authority or forum, the question of condonation of delay and thereby entertaining the matter for consideration on merits will arise. If there is no condonation of delay, the main matter does not get entertained for the purpose of consideration on merits."

20. In the third judgment cited above, reported in 1988-I Labour Law Notes 1030(A.GOPINATHAN NAIR v. N.RADHA BAI) the Kerala High Court made in Original Petition No.1540 of 1988 dated 1.3.1988 a learned single Judge has rejected the application for condonation of delay filed 2 ½ years after the Original Application for gratuity remarking that it was filed out of time and no sufficient cause has been shown for delay in filing the application – employee held not entitled to gratuity.

21. In the fourth Judgment cited above, reported in 1990-I Labour Law Notes 58.(TAMIL NADU MERCANTILE BANK LTD., v. APPELLATE AUTHORITY UNDER THE TAMIL NADU SHOPS AND ESTABLISHMENTS ACT) a Division Bench of the Madras High Court has held:
"once there are rules prescribing a period of limitation for preferring an appeal under the provisions of the Act then those rules have to be obeyed by the concerned party. If a party wants to get over the rules, he must have sufficient explanation therefor and unless such an explanation is tendered, it is not open to any Court to say that interest of justice would require the Court to ignore rules of limitation.....If a litigant has chosen to come to the Court after considerable delay for which he has no explanation, he

has to blame himself for his matter being thrown out without the merits being considered. He cannot make a complaint with the cause of justice has been defeated because of his own delay. No litigant can take advantage of his own fault and demand a premium therefor."

22. In the 5th judgment cited above reported in 1969-II Madras Law Journal 392(C.S.GAJENDRAN AND OTHERS v. THE MANAGEMENT OF SRIGANDIBAN BUS SERVICE) a Division Bench of the Madras High Court in the matter of condonation of delay in filing the application for payment of difference in wages seeking, where sufficiency of the cause has been made out to the requirements of Section 5 of the Limitation Act 1908 has held:
"Applications under Section 20 are thus governed by a limitation period of six months and the proviso set out above is in substance similar to the provision in section 5 of the Limitation Act. It is well settled that when a question of condoning delay under Section 5 of the Limitation Act arises, the party has to satisfy the Court that he had sufficient cause for not preferring the proceeding within the prescribed time, for the whole of the period of the delay. Every day's delay has to be explained. .....While it is difficult to define precisely the meaning of the words 'sufficient cause' and the scope of the expression cannot be crystallised by any rigid definition, the cause pleaded must be relevant and have relation to the delay. Of course, when the sufficiency of the cause is made out, the length of the delay may not count. Ignorance of rights and remedies conferred under the law must be bona fide. Bona fides and good faith may in certain circumstances get negatived by inaction, carelessness or negligence."

23. In the sixth judgment cited above reported in AIR 1995 Mad.102.(MANAGING DIRECTOR, THANTHAI PERIYAR TRANSPORT CORPORATION, VILLUPURAM
v. K.C.KARTHIYAYINI) a Division Bench of the Madras High Court while discussing the procedure prescribed under Order 41 Rule 3A of the Civil Procedure Code has held:
"The period of limitation is provided only under Art.116 of the Limitation Act, 1963 in respect of appeals and it cannot be said that Order41 Rule 3A given any additional right to litigants to claim condonation. Moreover, condonation of delay is not a matter of right. The litigant who comes to court after the prescribed period of limitation is bound to satisfy the court that he has sufficient cause for the delay."

Citing the above judgments in support of the case of the third respondent, the learned counsel would ultimately pray to dismiss the above writ petitions with costs.

24. In consideration of the pleadings by parties, having regard to the materials placed on record and upon hearing the learned counsel for both, it could be gathered that the petitioners in both these writ petitions have filed applications claiming gratuity after an inordinate delay of 4 to 23 years and citing the example of one P.V.Raju's case of A.P. High Court wherein though a learned single Judge is stated to have held the condonation of the delay wrong on appeal the Division Bench has held on construction of

gratuity Central Rules that there was really no delay in the said case and the petitioners seeking to apply the said norms to the cases in hand also have not only pleaded on ground of limitation, but also on other merits of the case and thus seeking the gratuity as per gratuity applications filed before the Controlling Authority.

25. On the part of the management, it would be argued that the petitioners are not entitled to claim higher amount as claimed by them even under paragraph 370 of LAT Award; that the applications have been rightly dismissed by the Controlling Authority as they were filed beyond time and the delay had not been explained properly; that all the petitioners were paid gratuity under the provisions of the Act; that admittedly the petitioners have not filed applications in Form I under Rule 7 with the employer within 30 days of their superannuation and hence the impugned orders were not vitiated by errors of law.

26. Be that as it may. Needless to mention that the question of limitation is a pre condition since being a question of law in the fact situation and unless this aspect of condonation of delay of 4 to 23 years that have occurred in the individual cases of the petitioners are not over come the Court cannot get into assessing the merit of the cases on facts and therefore, it is paramount to decide the legal question whether it is right on the part of the Controlling and Appellate Authorities in the cases in hand to have decided that the claims of the petitioners are barred by limitation.

27. Number of judgments would be cited on both sides respectively in support of their cases. So far as the judgments cited on the part of the petitioners' cases are concerned, in the first judgment a Division Bench of Madhya Pradesh High Court reported in 1991 (2) LLN 13 4 (supra) in a generalised form, would hold that merely because belated filing was objected to the jurisdiction of the Controlling Authority is not affected and its power to condone the delay is not taken away. Needless to mention that according to this judgment the jurisdiction of the Controlling Authority to condone the delay is an idle formality and no serious attention need be attached.

28. In the second judgment the Delhi High Court reported in 1993(1) LLN 129 (supra) it would also hold in the form of sermons that Payment of Gratuity Act being a social welfare Legislation, workmen cannot be deprived gratuity on account of late filing of application.

29. In the third judgment of the Division Bench of the A.P.High Court reported in 1996 LIC 2765 (supra) would dub the rules prescribing limitation are procedural and do not intend to extinguish right of an employee and when employer has benefited itself by money belonging to employees cannot resist claim on technical plea of limitation.

30. In the fourth judgment of the Hon'ble Apex Court reported in (1996) 10 SCC 172 (supra) would stick to the particular case handled by it and would hold that in the said case the retiral benefits and other claims of the employee were wrongfully withheld despite numerous representations, raising the plea of limitation holding the same improper.

31. In the 5th judgment of the Hon'ble Apex Court reported in (1997) 6 SCC 721 (supra) it would confine to the facts and circumstances of the case dealt with by it and would be of the view that it was a fit case that the Tribunal should have condoned the delay therein and the said proposition is not meant for universal application.

32. On the other hand on the part of the respondents also some judgments would be cited for the point of limitation. In the first judgment reported in 1987 LAB I.C.931 (supra) it has been held as an answer to one of the judgments cited earlier holding that the plea of limitation cannot be characterised as a technical plea and Rule 10 is not ultra vires of the Act.

33. In the second judgment reported in 1988 II LLN 126 (supra) the Court would hold that when there is a delay the authority has to condone the delay on sufficient cause being shown by the applicant. This he must do first; that the general rule is that any application which has not been filed in time shall be dismissed as time barred; that by virtue of the power conferred on the authority, the question of condonation of delay has to be considered on merit. If there is no condonation of delay, the main matter does not get entertained for the purpose of consideration on merits.

34. In the third judgment reported in 1988 (I) LLN 1030(supra) the Kerala High Court would decline to condone the delay of 2 « years.

35. In the fourth judgment reported in 1990 I LLN 58 (supra) a Division Bench of this Court would categorically hold that the Rules prescribed have to be obeyed and to get over the same unless the party offers sufficient explanation he has to blame himself for his matter being thrown out without the merits being considered and that no litigant can take his own advantage to his fault and demand a premium therefor.

36. In the next judgment reported in 1969 II MLJ 392 also a Division Bench of this Court would hold that every day's delay has to be explained.

37. In the last judgment reported in AIR 1995 Madras 102 also a Division Bench of this Court would hold that the condonation of delay is not a matter of right and the litigant who comes to Court after the prescribed period of limitation is bound to satisfy the Court that he is of sufficient cause for the delay.

38. It would be seen that so far as the judgments cited for condonation of delay on the part of the petitioners either they are in the generalised form or confined to the facts and circumstances of the cases dealt with by the said Courts and they are not in the form of being applied generally to cases where the condonation of delay occurs treating the same as precedents for application of similar facts. On the contrary the judgments cited in favour of the cases of the management are not only universal in application for every case that comes before the Court for decision on the point of limitation but also squarely apply to the cases in hand. In application of the norms of these propositions cited on the part of the respondent management the only conclusion that could be arrived at in the

cases in hand is that since there is an inordinate delay of 4 to 23 years depending upon the individual cases of the petitioners and knowingly since the petitioners were not able to explain the delay so occurred to the satisfaction of the Controlling Authority it had rightly dismissed the delay condonation applications filed on the part of the petitioners followed by confirmation of the said orders passed by the Controlling Authority by the Appellate Authority as well and since no valid or tangible reasons have been assigned on the part of the petitioners so as to convince this Court as to how legally the authorities below have committed an error apparent on the face of the orders or such other legal infirmities or inconsistencies having crept into the orders of the Controlling and Appellate Authorities, this Court does not find any reason to interfere with such orders passed in a well considered and merited manner and left with no option but to confirm the same they are confirmed accordingly.

39. Since the question of limitation has been decided against the petitioners in the aforementioned manner, there is no necessity for this Court to go into the other merits of the cases at all.

In result,
(i) both the above writ petitions fail and the same are dismissed.
(ii) However, in the circumstances of the case, there shall be no order as to costs.
(iii) Consequently, W.M.P.No.16626 of 2000 and W.P.M.P.Nos.10054 and 10055 of 2002 are also dismissed.

22.07.2002.
gr.
Index:Yes.
Internet:Yes.

V.KANAGARAJ,J

To
1.The Appellate authority under
the payment of Gratuity Act,1972
and the Regional Labour Commissioner(C)
Shastry Bhavan,26,Haddows Road,Chennai-6

2.The Controlling authority under the
payment of Gratuity Act,1972

3.The Chief General Manager,
State Bank of India,
21,Rajaji Salai,Chennai-1.

ORDER IN
W.P.NOS.7353 OF 1999 AND
11613 OF 2000